

**BEFORE SMT.S.T.DANDE, PRESIDING  
OFFICER, LABOUR COURT AT SATARA.**

**Reference (IDA) No.01/2010.**

**Exh.No.**

**Adjudication between**

Delaval Pvt. Ltd. and ors.

...**First Party.**

**AND**

Shri. Santosh R. Shinde

..**Second Party.**

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**-: ORDER BELOW EXH.18:-**

*( Delivered on 01<sup>st</sup> day of October, 2015 )*

- 1) Second party workman has filed application for production of documents.
- 2) It is averred in the application that present reference is of unfair labour practice and Second party workman seeking consequential relief. First party has illegally terminated the services of Second party workman. First party did not pay notice pay and retrenchment compensation to the Second party workman before termination. According to the Second party workman, there were more than hundred workers working in First party No.1 Company.

Provisions of chapter-5B of Industrial Disputes Act, 1947 is applicable to the First party Company. Second party workman was continuously working with the First party for more than eight years. Second party workman required to do the work of buffing, drilling and cutting of the parts of milking machine. Last drawn salary of Second party workman was about Rs. 3,400/-. Second party workman is employee of First party No.1 only and not of party No.2. Therefore, following documents are necessary as :-

- 1) Original muster rolls and payment musters in respect of all their employees, maintained by the First party at Tasawade, Head Office and at all the Marketing Officer for the period between June, 2007 till today.
- 2) Original muster rolls and payment muster in respect of all their employees employed through contractor maintained by the First party of their contractors as Tasawade, Head office and at all the Marketing Offices for the period between June, 2007 till today along with agreements their of with so called contractors.
- 3) Original cash books maintained by the First party at Tasawade, head office and at all the marketing offices all over India for the period between April, 2007 till today.

- 4) Office copies of appointment orders in respect of all their employees worked and working at Tasawade, Head Office and at all the marketing offices for the period between June, 2007 till today.
- 5) Purchase invoices, purchase orders of First party for the period between April,2007 till today.
- 6) Sales invoices of First party for the period between April, 2007 till today.
- 7) Delivery challans of First party for the period between April, 2007 till today.
- 8) Stocks register and stock transfer memos of First party for the period between April, 2007 till today.
- 9) Copy of sales tax returns submitted by First party for the period between April, 2007 till today.
- 10) Copy of Provident Funds return form submitted to P.F. office by First party in respect of all their employees at Tasawade, Head office and at all the marketing offices for the period between June, 2007 till today.
- 11) Copy of balance sheet of First party since year 2007-08 till today.

12) Lists of suppliers and dealers of the First party for the period upto June,2009 and their after till today.

13) Annual returns submitted to registrar of Company for the period between April, 2007 till today.

14) Annual returns submitted to Excise department by First party since April, 2007 till today.

15) Copy of constitution, Memorandum and articles of association of Tetra Laval, Tetra Pak, Delawal, Sidel, including First party and Tetra pak India Pvt. Ltd. At pune and list of their board of directors.

16) Original muster rolls and payment musters in respect of all their employees, maintained by he Tetra Pak India Ltd. at Pune head office and at all the Marketing offices for the period between June, 2007 till today.

17) The daily production reports maintained by Second party in respect of daily work done by Second party while working with First party for the period since, January, 2007.

18) Original vouchers maintained by First party in respect of claims of travelling allowance made by the workers including Second party for the period between April, 2006 till December, 2007.

19) Original register in indent material maintained by First party in respect of material taken by the workers for assembly from store of First party in respect of the period between January, 2005 till December, 2007.

20) Original copy of settlement held between First party and Bhartiya Kamagar Sena in respect of so called contract labours in year, 2009.

3) First party has filed say at Exh. 21 and resisted the application. It is contended by the First party that it has closed down permanently its manufacturing activities. While deciding the application for production of documents the relevancy of the documents is required to be seen. So far as the documents called at serial No.1 i.e. original muster rolls and payment registers at Taswade, head office and other alleged marketing offices from June, 2007 till today are concerned, the First party submits that at no point of time, it was employing 100 or more workmen at Tasawade factory. The Second party has never alleged and pleaded that 100 workmen were employed on any day in the factory at Tasawade. Therefore, documents called at serial No. 1 are not at

all relevant.

4) So far as the documents called at sr. No.2 i.e. copy of constitution, articles of association etc are concerned, the information called for is totally irrelevant. Documents at serial No.3(16) are concerned the First party submits that there are no production reports maintained in respect of Second party as he was not in the employment of this First party. Hence, the documents are not at all in existence. So far as documents called at serial No.4(17), First party submits that there are no production reports maintained in respect of Second party as he was not in the employment of this First party. Hence, the documents are not at all in existence. So far as documents called at serial No.5(18) are concerned the First party submits that there are no vouchers maintained in respect of Second party as he was not in the employment of this First party. Documents called at serial No.6(19) are concerned the First party submits that there is no such register maintained by this First party and hence question of production does not arise. First party has not signed any settlement in respect of contract labour with Bharatiya Kamgar Sena and hence question

of production of the same as called at Sr.No.7(20) of notice does not arise.

5) Further, First party has filed additional say at Exh.22. Wherein, he has specifically stated that documents called at serial No.5 to 15 are not relevant for the issues in question. Hence, prayed that notice of production of documents given by First party workman be rejected.

6) Heard learned advocates for both the parties. Perused documents on record. Following points arise for my determination, my findings thereon with reasons are as under.

<u>Points</u>	<u>Findings</u>
1) Whether application for production of documents is liable to be allowed ?	<u>Partly allowed.</u>
2) What order ?	<u>As per final order.</u>

## R E A S O N S

### As to point No.1

7) Present reference is filed for unfair labour practice. The Second party workman has claimed reinstatement with continuity in service and full back wages and also other consequential

benefits. First party has filed it's Written Statement and specifically denied the employer-employee relationship between the First party No. 1 company and Second party workman. It is the contention of First party that First party Company was not having any superannuation and control over all the employees employed by the contractors. Further, according to the First party No.1 Company manufacturing activities is permanently closed w.e.f. June, 2009. First party No.2 had terminated his contract in February, 2009. Therefore, to prove the contentions in claim, Second party workman called documents in application. Considering the pleadings of both the parties, I find that following documents are relevant for deciding the dispute between the parties.

I) Original muster rolls and payment musters in respect of all their employees, maintained by the First party for the period of two months.

II) Record of Second party workman i.e. registers, musters, payment muster for since June, 2007 till today.

III) Copy of provident fund return form submitted to P.F. office by First party in respect of all employees for two years.

IV) Copy of provident fund return form submitted to P.F. office by

the First party for the Second party workman since June, 2007 till today.

8) Only these documents are necessary and relevant at this stage and other documents may be called in further if it is found necessary. Hence, I answer point No.1 accordingly.

**As to point No.2:**

9) In view of discussion in point No.1, I pass the following order.

<b>- : <u>ORDER</u> :-</b>	
1)	<i>Application is partly allowed.</i>
2)	<i>First party is directed to produce the following documents :- I) Original muster rolls and payment musters in respect of all their employees, maintained by the First party for the period of two months. II) Record of Second party workman i.e. registers, musters, payment muster for since June, 2007 till today. III) Copy of provident fund return form submitted to P.F. office by First party in respect of all employees for two years. IV) Copy of provident fund return form submitted to</i>

:10: Reference(IDA) No.01/2010 Order continue..10

<i>P.F. office by the First party for the Second party workman since June, 2007 till today.</i>
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**SATARA.**

**Date :- 01/10/2015.**

Sd/-  
**( S.T. DANDE )**  
**PRESIDING OFFICER**  
**LABOUR COURT, SATARA.**